



### **6.1.16 WINDY HARBOUR DESIGN CODES**

#### **Purpose**

The **purpose** of this Policy is to:

- (i) Act as the development control mechanism required by the Windy Harbour Management Plan and individual site leases;
- (ii) Identify the objectives for a variety of design elements for continued development within the Windy Harbour Settlement;
- (iii) Set out performance criteria for each design element in order to meet these objectives;
- (iv) Establish acceptable development provisions that show one way of satisfactorily meeting the performance criteria; and
- (v) Clearly establish the development parameters for Windy Harbour in a manner that is easily understood by leaseholders, the local government and the general community.

#### **Objectives**

The **objectives** of this Policy are:

- (i) To ensure new development enhances and protects the existing character of Windy Harbour as a low-impact holiday settlement that responds to its natural surrounds;
- (ii) Provide a clear set of design objectives that are based on retaining and enhancing the existing character of Windy Harbour; and
- (iii) Provide for individual lease areas to be developed in a manner that is consistent with the character of Windy Harbour, whilst not becoming overly restrictive.

#### **Application of Policy**

This Policy applies to all development within lease areas of the Windy Harbour Settlement, located within Special Use Zone No. 5 as depicted on the Scheme Maps.

The Policy is to be read in conjunction with the Scheme, Windy Harbour Management Plan, individual site leases and any other relevant Local Planning Policy.

If a provision of the Policy is inconsistent with the Scheme, the Scheme prevails.

#### **Policy Exclusions**

This Policy excludes development undertaken for public purposes on land within the Windy Harbour Settlement.

The Windy Harbour Caravan Park is excluded from this Policy.

#### **Definitions**

For the purposes of this Policy, the definitions contained in the Scheme apply.

#### Planning Approval Required

Except where otherwise stated in this Policy, all development within the Windy Harbour Settlement requires Development Approval prior to works commencing.

#### Policy Background and Issues

The background and issues associated with this Policy and development in Windy Harbour are included in a separate Background Paper that forms an appendix to this Policy.

The Background Paper is to be read in conjunction with this Policy.

#### Policy Structure

Part 5 of this Policy contains the core design elements of the Windy Harbour Design Codes. These use a performance approach and are set out as follows:

First, the aim or **objective** of the design element or special provision is stated;

Second, a set of **performance criteria** is provided that must be satisfied if the objective is to be met; and

Third, a set of **acceptable development** provisions related to the performance criteria is established.

The **objective** outlines the desired outcome for a particular design element or special provision.

The **performance criteria** are general statements of the means of achieving the objective. They are not meant to be limiting in nature. Instead, they provide applicants with an opportunity to develop a variety of design responses to address each design issue.

The **acceptable development** provisions illustrate one way of satisfactorily meeting the corresponding performance criterion and are provided as examples of acceptable design outcomes. Acceptable development provisions are intended to provide a straightforward pathway to assessment and approval. Compliance with an acceptable development provision automatically means compliance with the corresponding performance criterion and fulfilment of the objective.

#### Policy Precincts

In order to meet the overall objectives for Windy Harbour contained in the *Windy Harbour Management Plan*, the settlement has been divided into five (5) Precincts as outlined in the Background Paper. The Precincts allow for the individual character of each area within the settlement to be adequately protected by this Policy.

The location of the Precincts is shown on the plan at **Attachment A** of this Policy.

#### Design Elements

##### Character

*Objective:*

*To protect and enhance the existing character of Windy Harbour as a low-scale holiday settlement that does not seek to modify the natural attributes of the area or to replicate conventional residential development.*

Building Design

<b>Performance Criteria</b>	<b>Acceptable Development</b>
To ensure that new and modified holiday cottages are complementary to the design of surrounding cottages and the Precinct in which it is located.	<ul style="list-style-type: none"> <li>a) Holiday cottages in Precincts 1 and 2 are to incorporate a pitched roof and gable design unless the existing holiday cottage has an alternative roof design.</li> <li>b) Holiday cottages in Precincts 3, 4 and 5 are to incorporate a roof design that is consistent with surrounding cottages.</li> <li>c) Verandahs and patios are to use skillion roof construction. The construction of gabled patios will generally not be approved unless incorporated into the roofline of the cottage.</li> <li>d) The local government will apply a general presumption against the demolition or substantial modification of holiday cottages in Precinct 1.</li> <li>e) Modifications to existing holiday cottages in Precinct 1 will only be approved where the local government is satisfied that the design and construction of the existing cottage is appropriately maintained.</li> </ul>

Colours and Materials

<b>Performance Criteria</b>	<b>Acceptable Development</b>
To ensure new development retains the character of Windy Harbour as a settlement where use of light weight materials is evident and colours reflect the coastal location.	<ul style="list-style-type: none"> <li>a) Brick and masonry walls may be permitted where the local government grants Development Approval after taking into account the character of the surrounding cottages.</li> <li>b) Re-cladding of existing cottages does not require Development Approval.</li> <li>c) Roofing is to be metal sheeting.</li> <li>d) Clay or cement roofing tiles are not permitted unless required on cottage extensions to match into an existing tile roof.</li> <li>e) The use of unpainted 'Zincalume' steel roof sheeting is permitted.</li> <li>f) Second-hand materials are to have an 'as new' appearance.</li> </ul>

Setbacks

*Objective:*

*To ensure adequate provision of direct sun and ventilation for holiday cottages and to ameliorate the impacts of building bulk, interference with infrastructure and overshadowing on adjoining lease areas.*

<b>Performance Criteria</b>	<b>Acceptable Development</b>
Holiday cottages and outbuildings setback from lease boundaries and other cottages so	<ul style="list-style-type: none"> <li>a) Precinct 1: <ul style="list-style-type: none"> <li>(i) A minimum separation distance of</li> </ul> </li> </ul>

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as to provide adequate fire separation, direct sun, ventilation, noise amelioration and to protect the character of Windy Harbour.

- 1.8m and 0.9m between the walls and eaves respectively of separate holiday cottages to be maintained at all times.
  - (ii) 2.0m minimum setback between holiday cottage wall and front lease boundary or existing building line, whichever is the lesser.
  - (iii) 1.0m minimum setback between front line of a verandah/porch and front lease boundary or existing building line, whichever is the lesser.
  - (iv) 1.0m minimum setback between holiday cottage wall / edge of roof and side and rear lease boundaries.
  - (v) Nil side / rear setbacks to unroofed decks, steps or similar.
  - (vi) Nil setbacks to outbuildings, subject to being located behind the front building line of the holiday cottage and ensuring all roof water is retained within the lease area.
- b) Precinct 2:
- (i) A minimum separation distance of 1.8m and 0.9m between the walls and eaves respectively of separate holiday cottages to be maintained at all times.
  - (ii) 4.0m minimum setback between holiday cottage wall and front lease boundary or existing building line, whichever is the lesser.
  - (iii) 1.5m minimum setback between front line of a verandah/porch and front lease boundary or existing building line, whichever is the lesser.
  - (iv) 1.0m minimum setback between holiday cottage wall / edge of roof and side and rear lease boundaries.
  - (v) Nil side / rear setbacks to unroofed decks, steps or similar.
  - (vi) Nil setbacks to outbuildings, subject to being located behind the front building line of the holiday cottage and ensuring all roof water is retained within the lease area.
- c) Precinct 3:
- (i) A minimum separation distance of 1.8m and 0.9m between the walls and eaves respectively of separate holiday cottages to be maintained at all times.
  - (ii) 6.0m minimum setback between holiday cottage wall and front lease boundary or existing building line, whichever is the lesser.
  - (iii) 3.0m minimum setback between front line of a verandah/porch and front lease boundary or existing building line, whichever is the lesser.

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	<ul style="list-style-type: none"><li>(iv) 1.5m minimum setback between holiday cottage wall / edge of roof and side lease boundaries.</li><li>(v) 1.0m minimum setback between unroofed decks, steps or similar and side lease boundaries.</li><li>(vi) 3.0m minimum setback between holiday cottage wall, edge of roof or unroofed decks, steps or similar and the rear lease boundary.</li><li>(vii) Nil setbacks to outbuildings, subject to being located behind the front building line of the holiday cottage and ensuring all roof water is retained within the lease area.</li></ul> <p>d) Precinct 4:</p> <ul style="list-style-type: none"><li>(i) A minimum separation distance of 1.8m and 0.9m between the walls and eaves respectively of separate holiday cottages to be maintained at all times.</li><li>(ii) 6.0m minimum setback between holiday cottage wall and front lease boundary or existing building line, whichever is the lesser.</li><li>(iii) 3.0m minimum setback between front line of a verandah/porch and front lease boundary or existing building line, whichever is the lesser.</li><li>(iv) 1.5m minimum setback between holiday cottage wall / edge of roof and side lease boundaries.</li><li>(v) 1.0m minimum setback between unroofed decks, steps or similar and side lease boundaries.</li><li>(vi) 6.0m minimum setback between holiday cottage wall / edge of roof and the rear lease boundary.</li><li>(vii) 3.0m minimum setback between unroofed decks, steps or similar and the rear lease boundary.</li><li>(viii) Nil side setbacks and minimum 3.0m rear setback to outbuildings, subject to being located behind the front building line of the holiday cottage and ensuring all roof water is retained within the lease area.</li></ul> <p>e) Precinct 5:</p> <ul style="list-style-type: none"><li>(i) A minimum separation distance of 1.8m and 0.9m between the walls and eaves respectively of separate holiday cottages to be maintained at all times.</li><li>(ii) 6.0m minimum setback between holiday cottage wall or front line of a verandah / porch and front lease boundary or existing building line, whichever is the lesser.</li><li>(iii) 1.5m minimum setback between holiday cottage and side lease</li></ul>
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	<p>boundaries where wall is less than 5m high.</p> <p>(iv) 2.5m minimum setback between holiday cottage and side lease boundaries where wall is greater than 5m high.</p> <p>(v) 6.0m minimum setback between holiday cottage and the rear lease boundary.</p> <p>(vi) 1.0m minimum setback between outbuildings and side and rear lease boundaries, subject to being located behind the front building line of the holiday cottage.</p>
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Site Coverage and Open Space Requirements

*Objective*

*To ensure the size and scale of development remains consistent with the function of providing private holiday accommodation and maintaining the small-scale, open character of Windy Harbour.*

Holiday Cottage Footprints

<b>Performance Criteria</b>	<b>Acceptable Development</b>
To ensure that the size of holiday cottages remains consistent with the character of the Precinct Area and reflects the short-stay nature of tenure in Windy Harbour.	<p>a) Holiday cottages, excluding any outbuildings or attached areas are to have a maximum ground level footprint as follows:</p> <p>(i) Precinct 1: 80m<sup>2</sup></p> <p>(ii) Precinct 2: 100m<sup>2</sup></p> <p>(iii) Precincts 3 and 4: 120m<sup>2</sup></p> <p>(iv) Precinct 5: 200m<sup>2</sup></p> <p>b) Roofed areas, such as patios and verandahs that are attached to the holiday cottage are not included in the footprint calculation.</p> <p>c) Unattached roofed areas, such as outbuildings and gazebos are not included in the above footprint calculation but are included in the proportion of overall site coverage required in 5.3.2.</p>

Site Coverage

<b>Performance Criteria</b>	<b>Acceptable Development</b>
Sufficient open space around buildings to complement the small-scale character of the holiday cottages and to promote permeability of the settlement.	<p>a) Notwithstanding the provisions of 5.3.1 and 5.8.1, maximum site coverage of any lease area is not to exceed the following proportions of the lease area:</p> <p>(i) Precincts 1 and 2: 50%</p> <p>(ii) Precincts 3, 4 and 5: 40%</p> <p>b) The calculation of site coverage is to include all roofed areas on a lease area.</p>

Private Outdoor Living Area

<b>Performance Criteria</b>	<b>Acceptable Development</b>

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<p>Provide an appropriate private outdoor living area for each holiday cottage that may be screened or sheltered from prevailing winds.</p>	<ul style="list-style-type: none"> <li>a) An outdoor living area is to be provided for each holiday cottage that is wholly located within the lease area and behind the front building line of the cottage.</li> <li>b) The minimum size of the outdoor living area is to be as follows: <ul style="list-style-type: none"> <li>(i) Precincts 1 and 2: 25m<sup>2</sup></li> <li>(ii) Precincts 3, 4 and 5: 50m<sup>2</sup></li> </ul> </li> <li>c) An outdoor living area may be wholly or partly roofed and can incorporate raised decks or verandah areas.</li> <li>d) An outdoor living area may be cleared of vegetation and levelled, subject to Development Approval being granted.</li> <li>e) An outdoor living area may be screened or protected from winds, subject to Development Approval being granted.</li> </ul>
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Access and Parking

*Objective:*

*To ensure access and car parking arrangements remain informal and low impact.*

Vehicle Access and Parking

Performance Criteria	Acceptable Development
<p>Car and boat parking on and access to lease areas is to be informal and with minimal impact on the topography, vegetation and surrounding lease areas.</p>	<ul style="list-style-type: none"> <li>a) Each lease area to allow for the parking of at least one vehicle within the site, except in Precinct 1 where use of communal parking areas is permitted.</li> <li>b) Sealing or paving of driveway access or parking areas is not permitted without Development Approval.</li> <li>c) Any earthworks or vegetation clearing required to allow for car parking or access is to obtain Development Approval prior to works commencing.</li> </ul>

Pedestrian Access

Performance Criteria	Acceptable Development
<p>Pedestrian access through individual lease areas and the settlement in general is not to be impeded by development.</p>	<ul style="list-style-type: none"> <li>a) Each lease area is to allow pedestrian access through it in order to maintain or improve on existing levels of accessibility and permeability within Windy Harbour.</li> <li>b) Lease area boundaries are not to be fenced or otherwise blocked in a manner that prevents access through the entirety of a site.</li> <li>c) Partial fencing or retaining of a lease area may be permitted, subject to ensuring the level of access afforded prior to the development being maintained and in accordance with 5.9.1.</li> </ul>

Landform and Vegetation

*Objective:*

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*To maintain and enhance the existing natural topography and vegetation within Windy Harbour and to ensure development responds to the natural environment rather than unduly modify it.*

**Site Works**

<b>Performance Criteria</b>	<b>Acceptable Development</b>
Maintain existing ground levels as much as practicable.	<ul style="list-style-type: none"> <li>a) The local government will apply a general rule against the modification of ground levels.</li> <li>b) Excavation of a lease area below the lowest point on the lease area is not permitted..</li> <li>c) Cutting and filling of land to accommodate buildings will not be permitted unless the local government is satisfied that this is necessary to allow development to occur on a particular lease area.</li> <li>d) Construction of retaining walls will only be permitted where pedestrian accessibility through the lease area has been taken into account.</li> <li>e) Except where underneath a cottage footprint, retaining walls are not to exceed 900mm high unless the local government is satisfied that a higher wall is necessary in order to protect landform or native vegetation and pedestrian accessibility is appropriately considered.</li> <li>f) The construction of retaining walls of a height that requires fencing or balustrading to ensure pedestrian safety will not be permitted.</li> </ul>

**Vegetation Protection**

<b>Performance Criteria</b>	<b>Acceptable Development</b>
Maintain and enhance native vegetation in Windy Harbour.	<ul style="list-style-type: none"> <li>a) The local government will apply a general rule of presumption against the removal of vegetation, except declared weeds.</li> <li>b) No vegetation is to be removed from a lease area without the approval of the local government.</li> <li>c) The removal of vegetation will only be approved where the vegetation is dead, diseased or considered by the local government to be dangerous.</li> <li>d) Notwithstanding 5.5.2 c), removal of vegetation associated with an approved development or in accordance with the local government's annual Fire Break Order is permitted.</li> <li>e) Where removal of vegetation is permitted, the local government will place any conditions on the Development Approval necessary to ensure replacement vegetation using indigenous species is planted.</li> <li>f) Removal of vegetation from dune slopes</li> </ul>



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	or other areas where its removal may cause erosion will generally not be permitted.
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**Building Height**

*Objective:*

*To ensure the height of buildings in Windy Harbour are consistent with the low-rise character of the settlement.*

**Building Height**

<b>Performance Criteria</b>	<b>Acceptable Development</b>
Building height consistent with the existing nature of Windy Harbour and taking into account the desire to maintain existing ground levels.	a) Building height is to be calculated from the lowest point underneath the existing or proposed footprint of the holiday cottage and is to not exceed 8.5m to the top of the roof ridge. b) Excavation of a lease area below the lowest point of a lease area is not permitted. c) Cutting and filling of land to accommodate buildings is permitted within the approved cottage footprint.

**Servicing**

*Objective:*

*To ensure all holiday cottages are appropriately serviced and infrastructure is protected from inappropriate development.*

**Water**

<b>Performance Criteria</b>	<b>Acceptable Development</b>
Ensure that the Windy Harbour public drinking water supply and mains is protected from development that may cause damage or restrict access and ensure each holiday cottage is supplied with drinking water.	a) Each holiday cottage is to be connected to the Windy Harbour reticulated drinking water supply to the satisfaction of the local government. b) Notwithstanding the setback requirements contained in 5.2, no building is to be constructed above or within 1.0m of the alignment of the water main. c) Rainwater tanks are to be located wholly within the lease area in a location that avoids adverse impacts on access, landform and vegetation.

**Sewerage**

<b>Performance Criteria</b>	<b>Acceptable Development</b>
Ensure each holiday cottage is connected to an approved effluent disposal system.	a) Each holiday cottage is to be connected to an on-site effluent disposal system approved by the local government. b) The effluent disposal system for a holiday cottage is to be located wholly within the same lease area and setback

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	<p>a minimum of 1.2m from a holiday cottage.</p> <p>c) Where an existing effluent disposal system is not of a standard acceptable to the local government or is located partly or wholly outside of the lease area for the holiday cottage it services, the local government will require the system to be replaced / relocated where practicable as a condition of any Development Approval.</p> <p>d) No buildings are to be located above an effluent disposal system so that access to the system is blocked or impaired.</p>
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Electricity

<b>Performance Criteria</b>	<b>Acceptable Development</b>
<p>Provide for each cottage to have on-site electricity generation with amenity considerations subservient to the need to generate power.</p>	<p>a) Wind turbines located wholly within the lease area of the subject cottage up to a height of 20m in Precincts 1 - 4 and 25m in Precinct 5 are permitted subject to local government Development Approval and taking into account the potential impact on access, landform and vegetation.</p> <p>b) Roof-mounted solar panels are permitted without Development Approval.</p> <p>c) Ground-mounted solar panels located wholly within the lease area of the subject cottage are permitted subject to local government Development Approval and taking into account the potential impact on access, landform and vegetation.</p> <p>d) New motorised power generating equipment is to be contained within a noise-insulated structure as approved by the local government.</p> <p>e) Existing motorised power generating equipment is to be included within a noise-insulating structure as a condition of any Development Approval for additions or alterations to a holiday cottage.</p> <p>f) Any power generating installation (ground- or roof-mounted) to service two or more lease areas is to obtain Development Approval with the local government to consider the impact on access, landform and vegetation. Approval will be subject to an appropriate operational agreement between the affected leaseholders to ensure the installation is maintained and managed to the satisfaction of the local government.</p> <p>g) Roof-mounted solar hot water systems are permitted without Development Approval.</p> <p>h) Wind turbines and motorised generating</p>

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	equipment are to be shut down between 10pm and 7am.
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Telecommunications

Performance Criteria	Acceptable Development
Provide for each cottage to access appropriate land line, satellite and terrestrial telephone, radio, television and internet.	<ul style="list-style-type: none"> <li>a) No development is to be built over underground telephone lines.</li> <li>b) Roof-mounted satellite dishes are permitted without Development Approval, subject to projecting no greater than 1m above the top of the roof ridge.</li> <li>c) Roof-mounted antennae and similar devices are permitted without Development Approval, subject to projecting no greater than 1.5m above the top of the roof ridge.</li> <li>d) Ground-mounted satellite dishes, antennae and similar devices are only permitted where Development Approval is granted, taking into account the potential impact on access, landform and vegetation.</li> </ul>

Clothes Drying

Performance Criteria	Acceptable Development
Provide for each cottage to have a clothes drying area / device that are not visually intrusive, impact on access through a site or capable of causing injury to pedestrians.	<ul style="list-style-type: none"> <li>a) Clothes drying areas are to be located behind the cottage in a position out of sight from the roadway.</li> <li>b) Rotary hoist – style clothes lines are not permitted.</li> <li>c) A retractable or fold-away clothes line is permitted without Development Approval where this is attached to the cottage or outbuilding, not visible from the roadway and will not block access or cause injury to pedestrians.</li> </ul>

Outbuildings

*Objective:*

*To ensure that outbuildings are maintained to a size commensurate with the holiday cottages and do not detract from the streetscape or character of Windy Harbour.*

Performance Criteria	Acceptable Development
Outbuildings that do not detract from the streetscape or the character of Windy Harbour.	<ul style="list-style-type: none"> <li>a) Precinct 1: <ul style="list-style-type: none"> <li>(i) 30m<sup>2</sup> maximum combined floor area.</li> <li>(ii) Located behind the front building line of the holiday cottage.</li> <li>(iii) Setback in accordance with 5.2.</li> <li>(iv) 3.6m maximum height to eaves.</li> </ul> </li> </ul>

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	<ul style="list-style-type: none"> <li>(v) 4.5m maximum height to roof ridge.</li> <li>(vi) The outbuilding is not to be used for habitation.</li> <li>(vii) The outbuilding is to be coloured to complement the holiday cottage on the same lease area.</li> </ul> <p>b) Precinct 2:</p> <ul style="list-style-type: none"> <li>(i) 45m<sup>2</sup> maximum combined floor area, or maximum 10% of the total lease area, whichever is the greater.</li> <li>(ii) Located behind the front building line of the holiday cottage.</li> <li>(iii) Setback in accordance with 5.2.</li> <li>(iv) 3.6m maximum height to eaves.</li> <li>(v) 4.5m maximum height to roof ridge.</li> <li>(vi) The outbuilding is not to be used for habitation.</li> <li>(vii) The outbuilding is to be coloured to complement the holiday cottage on the same lease area.</li> </ul> <p>c) Precincts 3 and 4:</p> <ul style="list-style-type: none"> <li>(i) 60m<sup>2</sup> maximum combined floor area, or maximum 10% of the total lease area, whichever is the greater.</li> <li>(ii) Located behind the front building line of the holiday cottage.</li> <li>(iii) Setback in accordance with 5.2.</li> <li>(iv) 4.0m maximum height to eaves.</li> <li>(v) 5.5m maximum height to roof ridge.</li> <li>(vi) The outbuilding is not to be used for habitation.</li> <li>(vii) The outbuilding is to be coloured to complement the holiday cottage on the same lease area.</li> </ul> <p>d) Precinct 5</p> <ul style="list-style-type: none"> <li>(i) 200m<sup>2</sup> maximum combined floor area.</li> <li>(ii) Located behind the front building line of the holiday cottage.</li> <li>(iii) Setback in accordance with 5.2.</li> <li>(iv) 7.5m maximum height to eaves.</li> <li>(v) 10.0m maximum height to roof ridge.</li> <li>(vi) The outbuilding is not to be used for habitation.</li> </ul>
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Fencing and Screening

*Objective:*

*To ensure any fencing and screening is limited in a manner that restricts the ability for a 'suburban' character to develop within the Windy Harbour settlement.*

Fencing

Performance Criteria	Acceptable Development
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<p>To ensure fencing is limited to areas where visual or acoustic privacy is determined to be necessary and to ensure fencing does not detract from the character of Windy Harbour.</p>	<ul style="list-style-type: none"> <li>a) Fencing of lease area boundaries in a manner that prevents pedestrian access through the site will not be permitted.</li> <li>b) Fencing of an outdoor living area required by 5.3.3 may be permitted where this is determined to be necessary to afford some level of privacy or to provide shelter from prevailing winds.</li> <li>c) Where fencing is permitted, the maximum height is to be 1.2m.</li> <li>d) Fencing is to visually permeable, except where approved by the local government as a privacy screen.</li> <li>e) The use of cement fibre, masonry or metal fencing is not permitted.</li> <li>f) The location of fencing on or near a lease boundary will only be permitted in the event that the local government does not receive an objection from adjoining leaseholders.</li> </ul>
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Screening

Performance Criteria	Acceptable Development
<p>To ensure screening is limited to private areas or where there is a demonstrated need to protect a holiday cottage from prevailing winds.</p>	<ul style="list-style-type: none"> <li>a) The use of brush, lattice, shade cloth or similar screens is permitted without Development Approval where integrated into an existing patio or verandah.</li> <li>b) Stand-alone screens will be considered fencing and are subject to 5.9.1.</li> </ul>

Administration

**Development Approval Required**

Except where otherwise provided in this Policy, all development on lease areas in Windy Harbour requires Development Approval to be granted prior to work commencing.

**Applications Consistent with the Acceptable Development Provisions**

Where an Application for Development Approval is consistent with all relevant acceptable development provisions, Development Approval will be granted by the Chief Executive Officer or a nominated officer under delegated authority.

**Applications Requiring Assessment against the Performance Criteria**

Where an Application for Development Approval requires a variation to an acceptable development provision it is required to be assessed against the relevant performance criteria.

The onus is on the applicant to demonstrate to the satisfaction of the local government that the proposal complies with the performance criteria.

Delegated authority is not to be exercised for the consideration of proposals that seek to use the performance criteria for any or all design elements instead of the relevant acceptable development provision.

**Proposals Inconsistent with Design Element Objectives**

Where in the opinion of the local government a proposal is inconsistent with a design element objective, the application shall be refused.

### Consultation

Except where otherwise provided in the Policy, where an Application for Development Approval is consistent with all relevant acceptable development provisions, consultation is not required.

Where variation to the acceptable development provisions is proposed, consultation is to occur as follows:

- a) All leaseholders that immediately adjoin the development site are to be provided details of the proposal in writing, identifying where variation from the acceptable development provisions is necessary and invited to comment on the variation within 14 days.
- b) The Coastal Ward Councillor is to be informed of the Application at the same time that adjoining leaseholders are advised.
- c) Where the variation is considered by the local government to be of a nature that requires consultation to be more extensive, additional leaseholders can be informed in writing and/or a sign placed on site as per (a).

**ADOPTED – 8 December 2016**

**EFFECTIVE – 21 December 2016**

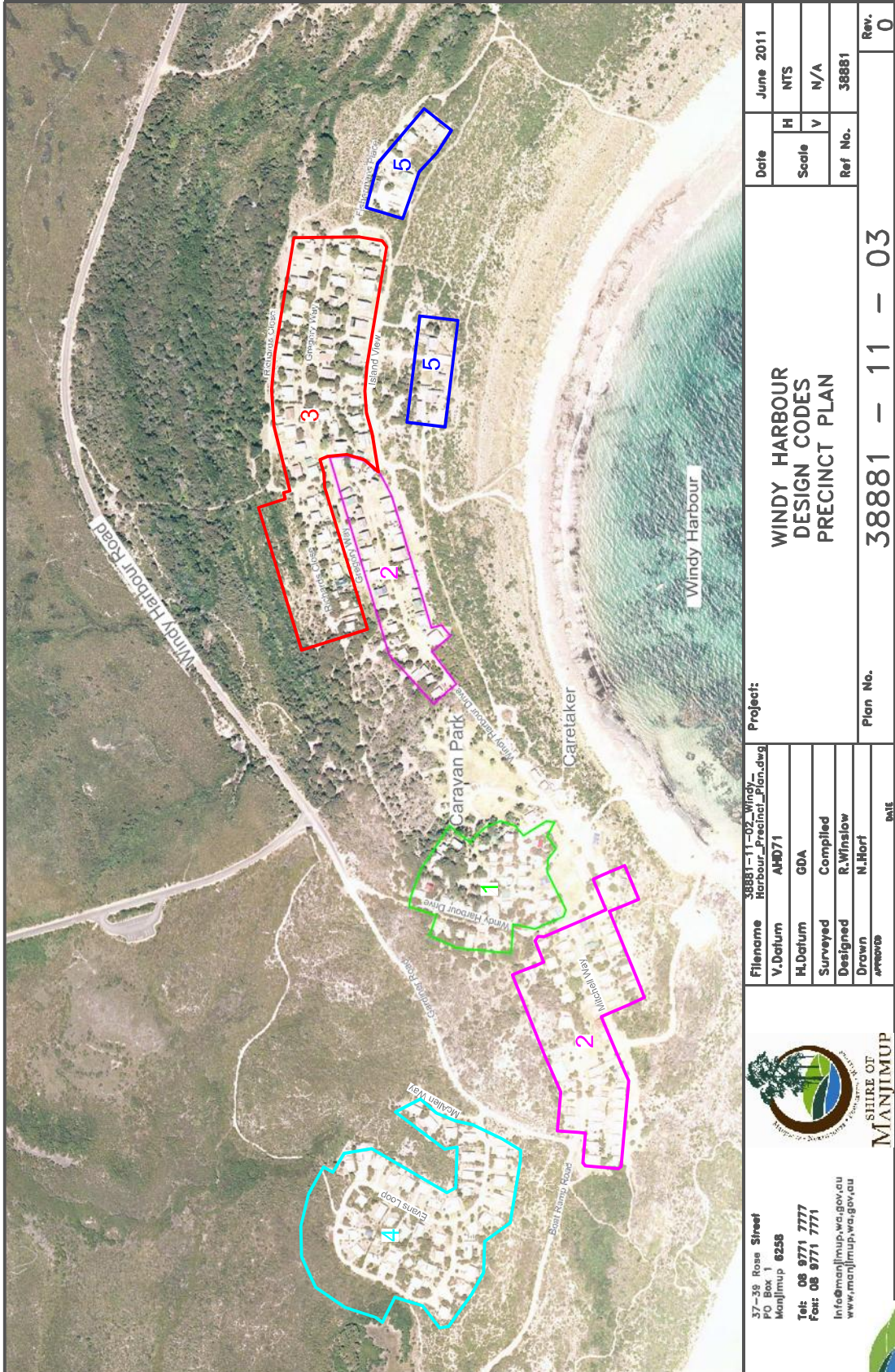
**NEXT DUE FOR REVIEW – December 2020**

The Administration of this Policy is by the Development and Regulation Division.
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# BACKGROUND PAPER

## WINDY HARBOUR DESIGN CODES

### Appendix to Local Planning Policy 6.1.16



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**BACKGROUND PAPER**  
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**Appendix to Local Planning Policy 6.1.16**

**1. Introduction**

Windy Harbour is a small holiday settlement situated on the south coast just to the east of Point D'Entrecasteaux on 'A' Class Reserve 38881. Reserve 38881 comprises Nelson Locations 12439 and 13304 and is set aside for recreation, camping, caravan park and holiday cottages.

The settlement of Windy Harbour itself lies within Nelson Location 12439. Management Orders for the care, control and management of the land have been made in favour of the Shire of Manjimup with power to lease, (subject to Ministerial approval in each case), in respect of Location 12439 only.

Windy Harbour contains some 219 cottages with a caravan park and camping ground. It is unique in that, unlike most other coastal settlements it is located within a Crown Reserve.

Land tenure is arranged by way of leases as distinct from the more conventional freehold tenure. Holiday cottage and professional fishermen's leases for the established leasehold areas are now being offered by the local government for 20 year terms.

Buildings may be occupied by the lessees in accordance with the terms of the respective leases and, with all necessary approvals, the lessees may sublet their buildings to others to occupy for short-stay purposes also (referred to as *Holiday Cottages* for planning purposes).

The overall management of the Reserve has been implemented in recent times in accordance with the provisions of the *Windy Harbour Management Plan 2007-2017* (WHMP) adopted on 25 October 2007. The WHMP replaced a previous Management Plan adopted in 1999.

At Clause 10.7 of the WHMP, it is recommended that a Local Planning Policy addressing land use and development controls within the settlement be prepared, advertised for public submissions and adopted by Council following full consideration of the submissions received. A Local Planning Policy made under former Town Planning Scheme No.2 (LPP 6.1.44 *Windy Harbour Land Use and Development Control*) was adopted on 7 May 2009.

Operation of Local Planning Policy 6.1.44 has been generally successful. However, it was determined that a review of the Policy be undertaken to ensure that there was sufficient clarity in the development controls and how they related to the objectives of the WHMP.

Local Planning Policy LPS4 6.1.16 was the result of this review. The opportunity has been taken to restructure the Policy to better identify individual objectives for design elements and to incorporate both performance criteria and acceptable development provisions.



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## 2. Legislative Context

### 2.1 Local Planning Scheme No. 4

Shire of Manjimup Local Planning Scheme No 4 (the Scheme) is made under the *Planning and Development Act 2005* (the Act). Part 2 of the Scheme allows the local government to create Local Planning Policies relating to a planning matter or a group of planning matters.

The Windy Harbour Reserve is zoned *Special Use No.5* by the Scheme. Schedule 6 of the Scheme lists the provisions that relate to the use and development of this zone as follows:

ZONE IDENTIFICATION	PERMITTED USES	CONDITIONS OF USE
<p><b>Special Use Zone No. 5</b></p> <p>Windy Harbour, being Reserve 38881 comprising of NL 12439 and NL 13304.</p>	<p>Holiday Cottages</p> <p>Holiday Accommodation</p> <p>Caretakers Dwelling</p> <p>Activities conducted by professional fishermen in accordance with their lease provisions</p> <p>Public Recreation</p> <p>Public Utility</p> <p>Ancillary Uses (as determined by the local government)</p>	<ol style="list-style-type: none"><li>1. Unless otherwise provided for, the use and development of the site is to conform with the endorsed Windy Harbour Management Plan (WHMP) which shall be regarded as an adopted Structure Plan for the purpose of the Scheme and which shall be read in conjunction with the Scheme.</li><li>2. The overall objective (Vision Statement) for Windy Harbour is to: <i>Manage Windy Harbour as a district and regional coastal holiday and recreation destination, while recognising the limited servicing, strong community associations, cultural heritage and environmental context.</i></li><li>3. The environmental objectives for Windy Harbour are that:<ul style="list-style-type: none"><li>• ongoing management of the reserve will be done in a sustainable manner while accommodating district and regional level recreation demands; and</li><li>• environmental management will recognize the context and function of the settlement within the broader natural environment and its relationship to the D'Entrecasteaux National Park.</li></ul></li><li>4. The economic objectives for Windy Harbour are that:<ul style="list-style-type: none"><li>• funding of principal recurrent operations should be sourced from a combination of user pays, municipal resources and external sources and should not significantly disadvantage other ratepayers within the municipality.</li><li>• at every opportunity non-recurrent local projects should be funded externally to the local government's general revenue; and</li><li>• regional non-recurrent projects should be treated on a case by case basis and may involve State and Federal assistance.</li></ul></li><li>5. The social objectives for Windy Harbour are that:<ul style="list-style-type: none"><li>• ongoing management of the reserve will recognise that Windy Harbour is predominantly a family holiday and recreation destination;</li><li>• the ongoing management will predominantly focus on district demands, while ensuring</li></ul></li></ol>

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		<p>erode the essential attractive characteristics of the area; and</p> <ul style="list-style-type: none"><li>• development standards should recognize the “informal” holiday and recreation functions of the area, as distinct from traditional urban areas.</li></ul> <p>6. All use and development shall require the approval of the local government.</p> <p>7. The local government may prepare and adopt Local Planning Policies for Windy Harbour including guidelines for development standards, design and landscape guidelines. These Policies shall be prepared and approved in accordance with Clause 2.4 of the Scheme. The policies shall be read in conjunction with the WHMP.</p> <p>8. In determining any application at Windy Harbour the local government is to have regard to:</p> <ul style="list-style-type: none"><li>• the requirements of the WHMP;</li><li>• any associated local planning policies; and</li><li>• the matters contained in Clause 10.2 of the Scheme.</li></ul> <p>9. The local government may approve other minor uses and development at the site provided that it is satisfied that those uses or development are:</p> <ul style="list-style-type: none"><li>• ancillary and beneficial to the settlement; and</li><li>• consistent with the above objectives.</li></ul>
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#### **2.2 Land Administration Act 1997**

Under the provisions of the *Land Administration Act 1997*, the land is reserved and may only be used for “Recreation, Camping, Caravan Park and Holiday Cottages”. A Management Order is currently in place giving the Shire of Manjimup management responsibility for the Reserve.

The Management Order includes the power to lease portions of the reserve for a maximum of 20 years, subject to the approval of the Minister for Lands. Each lease area is currently subject to this process, administered by the local government.

#### **2.3 Building Code of Australia**

The Building Code of Australia (BCA) applies to structures within the settlement and its provisions have been applied as far as practicable to all buildings; predominantly the holiday cottages.

All holiday cottages are required to conform with the Class 1a requirements of the BCA as if they were a conventional dwelling.

All outbuildings are to comply with the Class 10a requirements of the BCA.

All buildings in Windy Harbour require a Building Permit before construction commencing.

#### **2.4 Health Act 1911**

The Health Act 1911 requires all holiday cottages to be connected to an approved drinking water supply and effluent disposal system.

The reticulated drinking water supply is managed by the local government and

is connected to all holiday cottages. The mains are generally located within lease areas and require protection from buildings being building over the top.

Effluent disposal (sewerage) is undertaken on a site-by-site basis. Given the history of development in Windy Harbour, many existing systems are not constructed to meet current requirements or are insufficient to support extensions to the cottage. Another issue is that some effluent disposal systems are located outside of the lease area for the cottage they are connected to. This can lead to conflict with neighbouring lease areas in the event that there is a failure of the system or it prevents development of the neighbouring site.

## 2.5 Residential Standards

Previous local government Policies for Windy Harbour have required compliance with the *Residential Design Codes of Western Australia* (R Codes); although no particular Code has been specified.

The relevance of many of the R Codes to the form and use of development in Windy Harbour is questioned on the basis that buildings are holiday cottages and not dwellings in the accepted sense of that term, involve land holdings in the form of leased areas and not lots and a significant amount of existing development does not conform with the provisions of the Codes in any event.

Additionally, the character of development in Windy Harbour would not be supported by the Codes as site coverage requirements, maximum plot ratio standards and open space area requirements would all operate to allow a much denser form of development than currently prevails all of which would likely change the character of the place.

Accordingly, the local government will not apply the R Code standards to development in Windy Harbour but will use the standards set out in this Policy.

Although the standards have not been used, the format of the R-Codes has been adopted as the basis of the Windy Harbour Design Codes (Local Planning Policy LPS4 6.1.16). This format has been used in order to give better guidance on considering variations to acceptable development provisions.

## 3. Background on Design Elements

### 3.1 Character

The Reserves, within which Windy Harbour is located, are of typical south coast geomorphology with occasional rocky headlands with long sections of sandy coastline. The Reserves comprise a headland in the vicinity of the area where the boat ramp has been constructed with a bay formed to the east of the headland providing Windy Harbour's main beach. In cross-sectional profile from the ocean, there is a primary sand dune most of which has been colonised by coastal vegetation behind which there are a number of vegetated secondary dunes before the flatter coastal plain is encountered in the National Park to the north of the settlement.

Development within the settlement is typical of holiday shacks that emerged the first instance from unauthorised development on Crown land in various coastal locations in Western Australia. The use of lightweight materials with post and framed construction predominates and creates a character described in other places as having a “beach shack aesthetic”.

These buildings have conventionally respected the land-form within the settlement using post and frame construction effectively allowing development to “rest” on the different levels of the dunes and swales rather than adapting the land to suit pre-determined forms of development using solid foundations and masonry construction. More recent buildings have introduced some different forms of construction but, in the main, the original aesthetic and character remain especially insofar as the height, use of land form and general appearance of buildings is concerned.

There is a desire among the owners of lease holdings to maintain the existing character of Windy Harbour. Opinions about character vary. Many of the lease holders see character as being more about lifestyle in the sense of the amenity the settlement affords, the freedom and safety of movement within the settlement and the way of life.

Others express the view that character relates to all of those factors but also to the design, height, form and appearance of development, the informality of the layout of buildings and other structures within the settlement and the freedom to move around the settlement at will without restrictions caused by boundary fences, retaining walls and like.

Some view character as something that emerges with the progress of time and changes in development style whereas others see it as defined by what currently exists. The retention of the character as represented by existing, or even the older style development appears to be one of the more prevalent views.

The character of Windy Harbour is probably most specifically typified by development in “Chinatown” where small buildings in close proximity to one another on small land areas have been merged into vegetated areas. The Council considers that changes to the form of development in this area will need to be even more tightly controlled if its character and charm are to be retained.

In order to protect and enhance the amenity levels, safety and character of Chinatown, the closure of the existing key access into the settlement through Chinatown will be undertaken once the new, more direct access into the settlement is constructed as envisaged in the Management Plan.

More broadly, existing development has also resulted in buildings being merged into naturally vegetated areas. Natural vegetation is an important element in the composition of the character of the settlement and its retention is fundamental if the present sense of place is to be retained. The issues of dangers posed by fire are understood and hence the provisions of the Windy Harbour Management Plan require that an overall Fire Management Plan will be prepared to seek to afford the best possible levels of safety consistent with

other objectives.

The character of the settlement is also partly defined by the manner in which properties are accessed. The non-bituminised standard of road construction is typical of the informality of the way in which the settlement has evolved and it is intended that this standard of road construction will remain to preserve this element of the settlement's character. The only possible exception to this will be the proposed new road into the settlement down to the area of "The Cut" which will carry the bulk of the traffic movements into and from the settlement.

Development form and character are best expressed by pictorial references rather than written description and so the character of Windy Harbour is seen to be typified by the following pictures of parts of the settlement.

The local government considers there are five distinct areas within the settlement that collectively produce the character of the settlement as just described:

**Precinct 1** incorporates the 'Chinatown' area. This area was the first portion of Windy Harbour developed and is characterised by relatively small cottages clustered around open space areas. Lease areas range in size from 181m<sup>2</sup> to 505m<sup>2</sup>, with an average size of 340m<sup>2</sup>. Many of the lease areas are irregularly shaped to take into account the topography and clustered nature of development.

**Precinct 2** incorporates older areas of the 'main settlement'. These have lease areas of between 222m<sup>2</sup> and 608m<sup>2</sup> with an average area of 334m<sup>2</sup>. These lease areas are regular in shape and arranged in a conventional grid pattern. The Precinct is divided into two parts by the Caravan Park and Chinatown (Precinct 1). Lease areas with relatively narrow lot widths of 13-15 metres are common in Precinct 2. Buildings are timber framed and constructed mainly of lightweight materials accommodating the topography of the dunes and swales

**Precinct 3** incorporates later development at the eastern end of the settlement centered on Gregory Way. Lease areas in Precinct 3 range between 651m<sup>2</sup> and 836m<sup>2</sup>, with an average size of 685m<sup>2</sup>. These sites are regular in shape and arranged in a conventional grid pattern. The lease areas are characterised by relatively wide frontages of approximately 21 metres in most cases. Buildings tend to be larger than in Precincts 1 and 2, although they are still timber framed with many using lightweight materials.

**Precinct 4** is the most recent area developed in Windy Harbour and is centred on Evans Loop at the western end of the settlement. The lease areas in Precinct 4 range between 557m<sup>2</sup> and 807m<sup>2</sup> with an average of 642m<sup>2</sup>. Evans Loop is curvilinear in design, so the resultant lease areas are less rectangular than in Precinct 3, which has similar site sizes. Many of the lease areas retain native vegetation, particularly at the rear and sides of cottages. This retained vegetation and the different road pattern gives Precinct 4 a different character to the other areas in the settlement. The holiday cottages in Precinct 4 are generally of new construction, but retaining the 'shack' character, such as through the use of unpainted 'fibro' wall cladding.

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**Precinct 5** contains the 'Fisherman's Leases' and is located at the eastern end of the settlement. The lease areas are larger given the need for storage of commercial fishing equipment. Lease areas range in size between 1,266m<sup>2</sup> and 1,780m<sup>2</sup> with an average size of 1,539m<sup>2</sup>. The sites are characterised by generally larger cottages, as well as storage areas for boats and equipment associated with commercial fishing licenses.

The photographs that follow are typical of these distinct areas and their respective development types.

**Precinct 1 (Chinatown)**



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**Precinct 2 (Western and Central Portions of the Main Settlement)**



**Precinct 3 (Eastern Portion of Main Settlement)**





**Precinct 4 (Evans Loop)**



**Precinct 5 (Fishermen's' Leases)**



### 3.2 Setbacks

The irregular pattern of much of the development in Windy Harbour means that the application of a standard set of setbacks from leased area boundaries, although desirable will need to be applied with some flexibility to have regard for the way in which the pattern of development within the settlement has evolved.

The continued desirability of applying the setback provisions of the R Codes has been reviewed and is not considered to be appropriate certainly within the earlier developed sectors of the settlement. This is based on the fact that development is informal, the quantum of development in relation to leased land areas is different to that envisaged in the R Codes with many existing forms of development not complying with the Codes and leased area sizes being small.

In order to maintain the informal character of the settlement, the local government, in addition to assessing the likely visual impact of any new dwelling, extension or outbuilding as well as amenity considerations, will have regard to the setbacks observed by established buildings on a given leased area as well as those on adjoining and nearby land to determine reasonable setbacks in each case where compliance with the setbacks set out below cannot be achieved.

Given the different ways in which the leased areas have been developed and that leased areas have been superimposed over established development, setback requirements have been set out for each sub-area of the settlement.

Setbacks from front boundaries will be assessed by reference to the setbacks observed by other buildings on adjoining leased areas in some sections.

Setbacks from rear boundaries will be assessed in each case having regard to the impact that the development will have on the settlement and adjoining buildings in particular.

While these arrangements lack certainty, they do provide the flexibility that the local government will require to determine what might be reasonable in each case.

### 3.3 Site Coverage and Open Space

It is important to specify the maximum amount of any particular lease holding to be covered by building in order to maintain the specific character of the area that has been established. To allow building development to increase beyond those limits could change both the appearance of the settlement and its ambience.

In the light of changes to the former single storey development requirement it is considered that building floor space (i.e. the aggregate of all buildings including floor space at all levels) should be replaced by a building footprint control as floor spaces, one above another, whether as another storey or as an undercroft, does not significantly affect character in terms of the space around buildings.

Given the other controls, relating to site coverage and outbuildings, the

Footprint limitation will apply only to the habitable cottage, exclusive of verandahs, patios, and decks or similar.

Over time the use of outdoor living areas, such as patios and decks has become more popular. The Policy requires each holiday cottage to have an outdoor living area that is located in a manner that affords at least a small level of privacy. The Policy will also allow, with local government approval, screening of these areas to provide protection from the elements and to afford some privacy.

### 3.4 Access and Parking

Windy Harbour is served by a network of narrow gravel roadways and access tracks that are constructed to the minimum specification possible to reduce environmental impacts. There is no intention to upgrade these roadways to a sealed standard.

Car parking for each lease area has always been informal. Most lease areas do not have constructed driveways, preferring to simply park on the grass. This improves the aesthetic, as well as reduces drainage impacts. Construction of driveways will require Development Approval.

An integral part of the character of Windy Harbour is the informal pedestrian access arrangements. Access has traditionally been permitted through each lease area and between cottages rather than limiting pedestrian movements to the roadways as is seen in conventional areas. The WHMP and the Policy both reinforce pedestrian 'permeability' as a key objective to be retained.

The Policy has been written in order to ensure accessibility through the settlement is maintained at current levels. All development will be assessed against this objective.

### 3.5 Landform and Vegetation

It will be expected that new development or re-development of land will respect the existing land-form of the settlement and that new buildings will be built to accommodate the natural differences in level of lease holdings within the settlement. While post and framed construction for new buildings has previously been required with other forms of solid wall and foundation construction not being seen to be consistent with the objectives of the Management Plan, there would appear to be some grounds for review of that position provided that new or replacement development can be seen to fit in with the forms and external finishes of existing buildings in the area.

One reason for prohibiting the use of solid forms of construction was to render it unnecessary to modify the natural contours of the land to make way for concrete floors, strip foundations and the like. Taken to the extreme these activities would allow for the construction of buildings that are typical stereotypes of development encountered elsewhere rather than have buildings purpose-designed to suit the topography of each site.

If, however, the use of solid foundations and walls for development within the settlement can be used with external treatments to reflect the materials used on other buildings in the area, then, assuming there is no need for extensive

Earthworks to accommodate those structures, the local government would be prepared to give consideration to those forms of construction in the future.

The clearing of vegetation is prohibited under the terms of leases insofar as concerns land within the holiday cottage and professional fishermen's lease areas. The position is taken that the controls in this part will relate to vegetation in the form of indigenous species and not to exotics that may have been planted by leaseholders or those using the area before them.

The clearance or removal of vegetation is development for the purpose of the Scheme and requires local government approval.

Moreover, the Shire of Manjimup as the agency having the care, control and management of the reserve is also responsible for the clearing of land under the provisions of the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*.

As a Policy provision, it is appropriate that there be a presumption against the clearing of any vegetation on the basis that the character of the settlement is very largely established by the interaction of holiday cottages with naturally vegetated areas. Its removal will, therefore, erode the very qualities that are considered to be of the greatest importance to the settlement's sense of place.

Where applications are made either for the clearing of land or for the removal of vegetation as a part of development proposals, the local government will examine the degree to which the vegetation concerned contributes to the character of that part of the settlement and the need to remove the vegetation and will adopt the principle of a presumption against its removal.

As noted earlier the existence of vegetation within the settlement does pose a fire risk and so it is important to ensure that the requirement to retain vegetation is paralleled by the preparation of a Fire Management Plan for the entire settlement to ensure that the best possible protection measures can be put in place without the need to remove the very vegetation that gives the settlement its character.

Where new vegetation is to be planted, the planting of species indigenous to the area is encouraged.

### 3.6 Building Height

Two competing elements have been considered in the formulation of this Policy; namely, on the one hand, the capacity to build holiday homes that accommodate all of the needs of the owners and, on the other, the maintenance of the established built form and character of the settlement.

The height of buildings is important in regard to the impact that development has within its setting. It determines the degree to which the original landform characteristic can be observed, the sense of dominance of buildings within both land and streetscapes and most of all, the degree to which the character of the area will be perpetuated.

It is considered that the height of new development should be limited to that which will achieve the objectives of the conservation of the character and

Landform of the settlement. Previously, new buildings had been limited to one storey which has given rise to difficulties of interpretation as to what constitutes a storey and has tended to encourage excavation of land areas to construct buildings with undercrofts entirely or partly underground in conflict with the objective of maintaining the existing land form.

A review of the submissions and the objectives of the Policy has led to a reconsideration of the purpose of confining building to single storey construction. There is no doubt that the purpose of the single storey development requirement was to ensure that the height of buildings in relation to land form should not increase. That being the objective, then there may be some circumstances within the settlement where buildings can be constructed within the height limitations but still involve the creation of a storey under the main building that could be occupied as living space without the overall height of the building being increased.

As land-form differs from site to site and some developments have occurred with single storey development on the crest of dunes with undercroft sections in the adjoining swales, a height limit above the lowest part of any leased area under the building is considered to be the most desirable control over development in the interests of character protection.

It is important to recognise, however, that the Policy still requires that no significant excavation be undertaken to create an undercroft or storey below an existing building.

### 3.7 Servicing

#### 3.7.1 Water

The reticulated drinking water supply is managed by the local government and is connected to all holiday cottages. The mains are generally located within lease areas and require protection from buildings being building over the top.

#### 3.7.2 Sewerage

Effluent disposal (sewerage) is undertaken on a site-by-site basis. Given the history of development in Windy Harbour, many existing systems are not constructed to meet current requirements or are insufficient to support extensions to the cottage. Another issue is that some effluent disposal systems are located outside of the lease area for the cottage they are connected to. This can lead to conflict with neighbouring lease areas in the event that there is a failure of the system or it prevents development of the neighbouring site.

#### 3.7.3 Electricity

A power supply from the South-West Grid with reticulation to Windy Harbour is not likely. A one-off settlement supply scheme, although possible perhaps using part of Reserve 13304 by way of solar panels or wind turbines or both, with reticulation is also not seen to be imminent. It has to be accepted, therefore, that individual lease holders may wish to generate power for their holiday cottages ect according to their needs by use of equipment such as motorised generators (as has conventionally been the case), solar panels or

wind turbines.

As power forms such a fundamental part of daily living and as there is an increasing and understandable view throughout the broader community that power generation should, where at all practicable, be undertaken by renewable means, it is clear that renewable energy generating devices should not be discouraged but accepted as a necessary norm in modern society. The less desirable visual consequences that they may generate will need to be accepted as a cost that must be borne in the broader community interest.

It is the obligation of all leaseholders to comply with all relevant legislation, not to commit or permit to be committed any nuisance to other leaseholders and to comply with the Windy Harbour Management Plan.

The generation of power has the potential to violate those lease conditions and so there is a need to address the matter within this Policy.

Power generating equipment, as ancillary functions to dwelling occupation, also has the potential to jeopardise the objectives of the Management Plan. There are strong amenity objections to power-generating motors running to provide power especially late into the evenings, although this has been the conventional power generation source for many years. There is an increasing tendency within the settlement for lot owners using generators to enclose the motors within sheds both to protect the machines and, together with the installation of insulation, to reduce their noise output. As opportunity arises with future development proposals, Council will require the provision of insulated structures within which to enclose existing or proposed motorised generators.

More recently, wind power has become available with the design and sale of small domestic wind turbines which are usually attached to the roof of buildings or constructed atop poles or masts. In proliferation, these can detract from the overall character and appearance of development in the settlement as it has come to be accepted. However, as with other forms of development such as large TV antennae in times past in various parts of the State, there is acceptance of the visual and other amenity impacts such structures may have, traded off against the need to have power.

Wind power generating units also have a propensity to generate unacceptable noise levels at certain speeds especially as parts of the equipment wear and fail to run smoothly over time. Tone resonances can be generated that fail to meet the *Environmental Protection (Noise) Regulations 1997* but these issues can be pursued under that legislation.

The positioning and height of such structures is determined principally by the amount of power required and by accessibility to "clean" (uninterrupted) air flow. This will vary from property to property. From a planning point of view, the issue is the degree to which such structures should be permitted to be installed without engaging the approval process and those for which an approval should be sought.

The principal planning concerns, both of which relate to amenity, are noise associated with turbine blades, bearings and tone resonances and also

Appearance; especially in proliferation.

As to appearance, it is to be expected that such devices will need to be well above roof level of the building to get clean air flow. That being the case, it will be accepted that domestic wind turbine power generators may be installed up to a height of no greater than 17.5m above ground level to the top of the mast. That height will be exceeded by the blades which may be of the order of 2.5m in length giving a total overall height of 20m from ground level.

Although less obtrusive visually, solar panels too are somewhat incongruous in the present, comparatively unsophisticated context of the character of Windy Harbour. Once again, in proliferation, such panels will have a significant visual impact but may be tolerated for the convenience of producing clean and quiet power; particularly if such units replace motorised power generators, in which case there will be an overall amenity improvement.

Such units will be least conspicuous if mounted on or below the roof line of the building concerned but if supported on a frame on top of the roof could have an undesirable visual impact.

Council has, therefore, decided that domestic level, power generating solar panels are permissible without the need to obtain planning approval other than if they are to be mounted on frames on the roof of any building to a height more than 500mm above the roof surface under them. It is possible, this Policy notwithstanding, that many such frame supported installations will require application for a Building Licence under the provisions of the Building Code of Australia.

#### 3.7.4 Telecommunications

The use of Satellite Dishes to gain television reception and to provide a means of communication not otherwise available is common throughout the Windy Harbour settlement. It is considered that the need for such structures outweighs any visual amenity consequences that they might incur and so will be permissible.

#### 3.7.5 Clothes Drying

The open nature of Windy Harbour means that the drying of clothes will always require some visual impact. However, the erection of permanent clothes lines, such as rotary hoists could also cause injury to pedestrians, particularly when traversing lease areas at night.

The Policy will not permit the erection of permanent hoist-type clothes lines. However, it allows for retractable or fold-away lines attached to the wall of the cottage or outbuilding.

### 3.8 Outbuildings

Given the small areas of many of the leased lots, the manner in which Windy Harbour has developed, which includes predominantly a limited number of small outbuildings and with unrestricted movement in and through the settlement, the construction of large outbuildings or a large number of outbuildings will assume a dominance that is not acceptable and will be

inconsistent with the objectives of this Policy. Larger outbuildings may also result in the clearing of additional vegetation again to the detriment of the very character that the Council and, by and large, the community wish to conserve. As already noted, where undercroft storage/parking areas are available, the need for additional outbuildings will be viewed more critically.

In earlier Windy Harbour Management Plans, outbuilding sizes have been limited to 40m<sup>2</sup> although in a more recent Policy on Windy Harbour, the size for outbuildings was increased to 60m<sup>2</sup>.

Consistent with the amenity and character objectives already set out above, there is a need to keep outbuilding size to a reasonable minimum to conserve the amenity and character of the settlement. Due to the different lease area sizes between Precincts, the Policy increases the permissible size of outbuildings the larger the average lease area sizes are in a Precinct.

The Professional Fishermen's Lease Holdings have been specifically devised in terms of both separation from the main part of the settlement and lease holding area to accommodate their activities. The need for outbuildings of a much greater size than those required for holiday cottages to accommodate equipment and vehicles used for fishing and storage of catches etc is accepted. Therefore, the size of outbuildings on Professional Fishermen's Lease Holdings is set at a maximum of 200m<sup>2</sup> but with the opportunity to increase that size upon justification in each on application.

The height of outbuildings on Professional Fishermen's' Lease Holdings will of necessity be higher to accommodate the equipment involved and so is set at 10m to the roof ridge with higher buildings being considered by Council on justification.

Where space and other criteria including development standards are met, outbuildings exceeding the nominated size in each sub-area of the settlement will be considered subject to sufficient justification being given in each case.

### 3.9 Fencing and Screening

The open nature of leased land and the absence of fences or walls also contribute to the informality of the settlement and should be perpetuated. The Policy stipulates that no boundary walls or fences may be erected on lease boundaries unless a planning approval is granted.

When considering fencing, the protection of pedestrian accessibility through the lease area will be a primary concern.

The screening of a patio or verandah will be permitted without development approval where the screen is integrated into the patio. Stand-alone screens will be considered fencing and subject to approval.

**ADOPTED 19 JANUARY 2012**